

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

VIRGILIO VARGAS,
Plaintiff,

v.

MITCHELL S. GOLDBERG, et al.,
Defendants.

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CIVIL ACTION NO. 19-CV-1214

ORDER

AND NOW, this 10th day of May, 2019, upon consideration of Plaintiff Virgilio

Vargas's Motion to Proceed *In Forma Pauperis* (ECF No. 4), his Prisoner Trust Fund Account Statement (ECF No. 5), and his *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Vargas, #66970066, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court hereby directs the Warden of Allenwood FCC or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Vargas's inmate account; or (b) the average monthly balance in Vargas's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Vargas's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Vargas's inmate account until the fees are paid. Each payment shall reference the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this order to the Warden of Allenwood FCC.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED with prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as to Defendants Mitchell S. Goldberg, Lynne A. Sitarski, Timothy R. Rice, M. Faith Angell, David R. Strawbridge, and Jessica Natali.

6. The Complaint is **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as to Defendants Brian B. Piskal and Sandra L. Shaw.

7. Vargas is granted leave to file an amended complaint within thirty (30) days of the date of this order as provided in the Court's Memorandum. The failure to file an amended complaint within this time period may result in the dismissal of the case for failure to prosecute.

BY THE COURT:


CHAD F. KENNEY, J.